

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

JACOB WOODS,

Plaintiff,

v.

BREITENBACH, *et al.*,

Defendants.

Case No. 3:23-cv-00635-MMD-CSD

ORDER

Pro se Plaintiff Jacob Woods, who is incarcerated in the custody of the Nevada Department of Corrections, has submitted a complaint, a first amended complaint (“FAC”), and a second amended civil rights complaint (“SAC”) under 42 U.S.C. § 1983. (See ECF Nos. 1-1, 7, 9.) The operative complaint in this case is the SAC because latter-filed complaints replace earlier-filed complaints. See *Rhodes v. Robinson*, 621 F.3d 1002, 1005 (9th Cir. 2010) (stating that “[a]s a general rule, when a plaintiff files an amended complaint, ‘[t]he amended complaint super[s]edes the original, the latter being treated thereafter as non-existent’”).

In this case, Plaintiff’s SAC directs the Court to refer to his FAC for claim 2 and his requested relief. (See ECF No. 9 at 4, 6.) The Court will not piecemeal Plaintiff’s operative complaint together for him. Instead, Plaintiff’s operative complaint must contain all claims, defendants, and factual allegations that Plaintiff wishes to pursue in this lawsuit. The Court gives Plaintiff until July 26, 2024 to file a third amended complaint which includes all the claims that Plaintiff seeks to pursue in this lawsuit.

If Plaintiff chooses to file a third amended complaint, he is advised that a third amended complaint supersedes (replaces) the original complaint, FAC, and SAC, and thus, the third amended complaint must be complete in itself. See *Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d 1542, 1546 (9th Cir. 1989) (holding that “[t]he


1 fact that a party was named in the original complaint is irrelevant; an amended pleading
2 supersedes the original"); *see also Lacey v. Maricopa Cnty.*, 693 F.3d 896, 928 (9th Cir.
3 2012) (holding that for claims dismissed with prejudice, a plaintiff is not required to
4 reallege such claims in a subsequent amended complaint to preserve them for appeal).
5 Plaintiff's third amended complaint must contain all claims, defendants, and factual
6 allegations that Plaintiff wishes to pursue in this lawsuit. Moreover, Plaintiff must file the
7 third amended complaint on this Court's approved prisoner civil rights form and it must be
8 titled "Third Amended Complaint."

9 It is therefore ordered that, if Plaintiff chooses to file a third amended complaint,
10 Plaintiff will file the third amended complaint on or before July 26, 2024.

11 It is further ordered that the Clerk of Court will send to Plaintiff the approved form
12 for filing a § 1983 complaint, instructions for the same, and copies of his FAC (ECF No.
13 7) and SAC (ECF No. 9). If Plaintiff chooses to file a third amended complaint, he must
14 use the approved form and he will write the words "Third Amended Complaint" in the
15 caption.

16 It is further ordered that, if Plaintiff does not timely file a third amended complaint,
17 the Court will screen the SAC (ECF No. 9) but will not consider any allegations presented
18 in an earlier complaint.

19 DATED THIS 24th Day of June 2024.

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23 MIRANDA M. DU
24 CHIEF UNITED STATES DISTRICT JUDGE
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